

REMARKS

The present Amendment amends claims 1, 2, 4, 6-10, 12 and 13, leaves claims 5 and 11 unchanged and cancels claim 3. Therefore, the present application has pending claims 1, 2 and 4-13.

The drawings stand objected to due to informalities noted by the Examiner in paragraph 3 of the Office Action. Filed on even date herewith are Proposed Drawing Corrections to correct the informalities noted by the Examiner. Therefore, this objection is overcome and should be withdrawn.

The disclosure stands objected to due to informalities noted by the Examiner in paragraph 4 of the Office Action. Various amendments were made throughout the specification to correct the informalities noted by the Examiner. Therefore, this objection is overcome and should be withdrawn.

Claims 1-13 stand rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Various amendments were made throughout the claims to overcome the 35 USC §112, second paragraph rejection. Therefore, this rejection is overcome and should be withdrawn.

Claims 2 and 8 stand rejected under 35 USC §102(e) as being anticipated by Ichikawa (U.S. Patent Application Publication No. 2004/0139205); and claims 3-5 and 9-11 stand rejected under 35 USC §103(a) as being unpatentable over Ichikawa and further in view of Overfield (U.S. Patent No. 5,598,577). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 2-5 and 8-11 are not taught

or suggested by Ichikawa of Overfield whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

It should be noted that Ichikawa is not an appropriate reference to be used for anticipatory or obviousness-type purposes to reject claims 2-5 and 8-11 of the present application being that the present application claims a priority date of March 5, 2003 which predates the effective date of June 30, 2003 of Ichikawa. Thus, the above noted rejection of claims 2 and 8 under 35 USC §102(e) as being anticipated by Ichikawa, and the above noted rejection of claims 3-5 and 9-11 under 35 USC §103(a) as being unpatentable over Ichikawa are rendered moot since Ichikawa cannot form the basis of a prior art rejection being that it is not prior to Applicants' invention. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2 and 8 under 35 USC §102(e) as being anticipated by Ichikawa, and the rejection of claims 3-5 and 9-11 under 35 USC §103(a) as being unpatentable over Ichikawa.

Even if Ichikawa could be used for anticipatory or obviousness type purposes to reject the claims of the present application, Applicants submit that the features of the present invention as now more clearly recited in the claims are not taught or suggested by Ichikawa whether taken individually or in combination with any of the other references of record.

Particularly, Ichikawa fails to teach or suggest the above described features of the present invention wherein a first switching unit a standby computer is provided responsive to a result of the detection by a monitor for determining to transmit, to the

standby computer, of a notice for informing the standby computer that a volume identifier stored in the volume subjected to the execution of the replica is changed. These features of the present invention are discussed, for example, on page 6, lines 7-28 of the originally filed application. The Examiner's attention is directed to such teachings.

Further, there is no teaching or suggestion in Ichikawa that the active computer holds a first disk management information buffer adapted to store in corresponding relation physical device names of volumes stored in the disk device and volume identifiers with correspondence between the physical device name and the volume identifiers as in the present invention. This information as per the present invention is used to detect when a change in the volume identifier stored in the volume subjected to the execution of the replica has been changed. Such features are clearly not taught or suggested by Ichikawa.

Therefore, the features of the present invention as now more clearly recited in the claims are not taught or suggested by Ichikawa, if Ichikawa could be used for anticipatory or obviousness type purposes to reject the claims of the present application.

In the Office Action the Examiner also rejected the claims by combining Ichikawa with Overfield. However, it should be noted that since Ichikawa cannot be used for anticipatory or obviousness type purposes to reject the claims of the present application Overfield must stand on its own. In the Office Action the Examiner was quite clear that Overfield is merely relied upon for an alleged missing teaching of Ichikawa. Thus, Overfield cannot stand on its own and as such does not anticipate

or render obvious the features of the present invention as recited in the claims. Therefore, the 35 USC §103(a) rejection of the claims based on Overfield as the remaining reference should be reconsidered and withdrawn.

It should be noted that a certified copy of the Priority Document was filed in the present application on January 30, 2004 along with the filing of the present application. A Sworn English Translation of the Priority Document is now being prepared and will be filed upon its receipt from Applicants.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1, 2 and 4-13.

In view of the foregoing amendments and remarks, applicants submit that claims 1, 2 and 4-13 are in condition for allowance. Accordingly, early allowance of claims 1, 2 and 4-13 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.43447X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

A handwritten signature in black ink, appearing to read 'Carl I. Brundidge', is written over a horizontal line.

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